IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 15622 of 2005

Between:

Kapavarapu Kamala D/o Late Kapuvrapu Venkateswara rao
R/o D. N0. 11/613, Roberston Pet, machilipatnam, Krishna District

..... PETITIONER

AND

1 The Commissioner, Machiliptnam Municipality, Krishna District
2 The District Collector, Krishna District
3 Allada hari Krishna Prasad, S/o Late Rama Krishna Rao
R/o Edepalli, District Court Road, Machilipatnam, Krishna District
4 Allada Venkatesara Rao S/o Late Ramakrishna Rao
R/o Chituru Ghantasala Mandal, Krishna District

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of writ of Mandamus: declaring the action of the respondents 1 & 2 in proposing to demolish building bearing door No.11/613, situated at Robertson pet, Machilipatanam, Krishna District without giving any notice and without following due process of law which amounts to arbitrary, illegal, capricious and violative of Arts. 14, 21 and 300 (A) of Constitution of India and consequently direct the 1st & 2nd respondent not to demolish the shop bearing Door No.11/613 situated at Robertson pet, Machilipatnam, Krishna District

Counsel for the Petitioner:MR.YALLABANDI RAMATIRTHA

Counsel for the Respondent No.1: MR.S.NAGESWARA REDDY

Counsel for the Respondent No.2: G.P. FOR REVENUE

The Court made the following :

ORDER:

1. This writ petition is filed to declare the action of the respondents 1 and 2 in proposing to demolish building bearing Door No. 11/613, situated at Robertsonpet, Machilipatnam, Kirishna District without giving any notice and without following due process of law which is arbitrary and illegal and consequently direct the 1st and 2nd respondents not to demolish the shop bearing Door 11/613, situated at Robertsonpet, Machilipatnam, Krishna District.

2. Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondents-Municipal Corporation.

3. The learned counsel for the petitioner contended that the petitioner is the absolute owner of shops bearing Nos. 11/613, situated at Robertsonpet, Machilipatnam, Krishna District and he has not encroached any Government site. It is his further contention that without initiating land acquisition proceedings, and without issuing any notice, the respondents are trying to demolish his shop in the process of road widening.

4. On the other hand, the learned counsel for the respondents contended that on mere apprehension only, the petitioner filed this writ petition, and the respondents have not been taken any steps for demolition of shop of the petitioner.

5. The Division Bench of this Court in ***P.Lakshmana Rao v. Executive Officer*** issued certain guidelines to be followed by the authorities in acquiring the properties of public for the purpose of widening roads. When a property is required for public purpose viz., for widening of roads or for any other purpose, the authorities straightaway cannot take the law into their hands and jump into the premises and attempt to evict the occupants or dispossess them or demolish their property. Before taking any such action, the authorities concerned shall issue a notice notifying as to the nature of the property, the purpose for which it is required, to whom it belongs and the action proposed calling for explanation or objections, if any, from the occupants and after considering the said objections or explanations, the authorities shall pass appropriate orders, if necessary.

6. Following the guidelines issued by this Court in the above referred judgment, I deem it appropriate to dispose of the writ petition with a direction to the respondents not to take any steps for demolition of the shop of the petitioner without following due procedure, without initiating land acquisition proceedings and without making any negotiations with the petitioner.

7. The Writ Petition is, accordingly, disposed of. No order as to costs.

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Elipe Dharma Rao,J.

Dated:19.07.2005

Note:

Issue CC in two days

B/o

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner, Machiliptnam Municipality, Krishna District
2 The District Collector, Krishna District
3. 2 CD copies

4. 1 CC to MR.YALLABANDI RAMATIRTHA

5. Two CCs to G.P. for Revenue, High Court of A.P. Hyderbad.

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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19th JULY,2005